

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Deaddio

Examiner: Felten

Title: Visualization Tool

Serial No.: 09/127,341

Filed: July 31, 1998

Ref. No.: 11021.0001

**PETITION UNDER 37 C.F.R. § 1.137(a) TO REVIVE AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY**

TO: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants respectfully submit this Petition under 37 C.F.R. § 1.137(a) to revive an application for patent abandoned unavoidably, along with the fee set forth in 37 C.F.R. § 1.17(l). Applicants believe the fee submitted herewith is sufficient, but authorize any additional fees to be charged to Hughes Hubbard & Reed Deposit Account No. 08-3264.

On January 30, 2006, the U.S. Patent and Trademark Office issued a Final Office Action regarding the above-referenced application. In response to this Final Office Action, applicants' attorney held telephone interviews with the Examiner on July 19, 2006 and July 27, 2006 to discuss the proposed amendments. In the second interview, the Examiner agreed to allow the entry of the amendments, agreed to withdraw the final rejection, and asked the applicants' attorney to document their agreement in the next submission. Relying on the outcome of the interview, applicants submitted the amendments on July 27, 2006, which also included a summary of the interview. However, on September 8, 2006, the Examiner issued an Advisory

Action, stating that, upon further consideration of the claim language, the specification, and in lieu of the telephone interview, the Examiner had determined that the amendments made after the final had raised a new issue that would require further consideration and search, and therefore the amendments would not be entered. As a result, the application became abandoned on July 31, 2006.

Applicants submit that the abandonment of the application was unavoidable because applicants relied upon the agreement made with the Examiner during the interview on July 27, 2006 and believed that the final rejection would be withdrawn. Since applicants were not aware of anything contrary to the agreement made in the telephone interview until the receipt of the Advisory Action dated September 8, 2006, applicants could not have filed another response before July 31, 2006, and therefore the abandonment was unavoidable. Thus, in accordance with 37 C.F.R. § 1.137(a), applicants hereby submit this petition to revive the unavoidably abandoned application along with a fee of \$500, together with a Request for Continued Examination (RCE) and the required fee of \$790.

Applicants respectfully request that this Petition be considered and granted, and that the utility application submitted herewith be submitted for examination on its merits.

Dated: October 13, 2006

Respectfully submitted,



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